

63G-4-405. Judicial review -- Stay and other temporary remedies pending final disposition.

(1) Unless precluded by another statute, the agency may grant a stay of its order or other temporary remedy during the pendency of judicial review, according to the agency's rules.

(2) Parties shall petition the agency for a stay or other temporary remedies unless extraordinary circumstances require immediate judicial intervention.

(3) If the agency denies a stay or denies other temporary remedies requested by a party, the agency's order of denial shall be mailed to all parties and shall specify the reasons why the stay or other temporary remedy was not granted.

(4) If the agency has denied a stay or other temporary remedy to protect the public health, safety, or welfare against a substantial threat, the court may not grant a stay or other temporary remedy unless it finds that:

(a) the agency violated its own rules in denying the stay; or

(b) (i) the party seeking judicial review is likely to prevail on the merits when the court finally disposes of the matter;

(ii) the party seeking judicial review will suffer irreparable injury without immediate relief;

(iii) granting relief to the party seeking review will not substantially harm other parties to the proceedings; and

(iv) the threat to the public health, safety, or welfare relied upon by the agency is not sufficiently serious to justify the agency's action under the circumstances.

Renumbered and Amended by Chapter 382, 2008 General Session